

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3363

Michael Gillis,

Appellant,

v.

Crittenton, d/b/a Crittenton
Behavioral Center, a member of
the Saint Luke's-Shawnee Mission
Health System,

Appellee.

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Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: May 13, 2002

Filed: May 29, 2002

Before HANSEN, Chief Judge, MORRIS SHEPPARD ARNOLD, Circuit Judge, and
PRATT,¹ District Judge.

PER CURIAM.

¹The Honorable Robert W. Pratt, United States District Judge for the Southern
District of Iowa, sitting by designation.

Michael Gillis appeals the order of the district court² granting summary judgment to Crittenton. Mr. Gillis served as a behavioral health technician at Crittenton, a residential behavioral health center for minor children. When Mr. Gillis was terminated from his employment, he sued Crittenton for sex discrimination, alleging that Crittenton treated him differently from the way that it treated similarly situated female employees. Reviewing *de novo*, *Rheineck v. Hutchinson Technology, Inc.*, 261 F.3d 751, 755 (8th Cir. 2001), we affirm.

Under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973), Mr. Gillis was required to establish a *prima facie* case of discrimination. Assuming, without deciding, that he did so, Crittenton, in turn, was required to articulate a legitimate, non-discriminatory reason for its decision to terminate Mr. Gillis. *See id.* at 802-04. Crittenton produced evidence that it terminated Mr. Gillis because of his excessive absenteeism. The burden then fell upon Mr. Gillis to show that the reason given by Crittenton was a pretext for discrimination. *See id.* at 804-05. Mr. Gillis failed to satisfy this burden because the persons with whom he sought to compare himself were not similarly situated to him in all relevant respects. *See Cronquist v. City of Minneapolis*, 237 F.3d 920, 928 (8th Cir. 2001).

Accordingly, we affirm. *See* 8th Cir. Rule 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

²The Honorable Nanette K. Laughrey, United States District Judge for the Western District of Missouri.